



Legislative Audit Division

State of Montana

Report to the Legislature

March 1996

Performance Audit Report

Analysis of Game Warden Work Activities

**Department of Fish, Wildlife and Parks
Law Enforcement Division**

Game wardens demonstrate a strong commitment to protecting Montana's fish, wildlife and parks resources. The Law Enforcement Division could make its operations more efficient by establishing and monitoring formalized resource-based priorities.

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PERFORMANCE AUDITS

Performance audits conducted by the Legislative Audit Division are designed to assess state government operations. From the audit work, a determination is made as to whether agencies and programs are accomplishing their purposes, and whether they can do so with greater efficiency and economy. In performing the audit work, the audit staff uses audit standards set forth by the United States General Accounting Office.

Members of the performance audit staff hold degrees in disciplines appropriate to the audit process. Areas of expertise include business and public administration, statistics, economics, computer science, communications, and engineering.

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March 1996

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This is our performance audit of the Department of Fish, Wildlife and Parks's Law Enforcement Division. It includes an analysis of game warden work activities. This report found game wardens demonstrate a strong commitment to protecting Montana's Fish, Wildlife and Parks resources. The report also contains recommendations for improving the efficiency of division operations. Responses from the department are contained at the end of the report.

We wish to express our appreciation to the department and staff for their cooperation and assistance.

Respectfully submitted,



Scott A. Seacat
Legislative Auditor

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Legislative Audit Division

Performance Audit

Analysis of Game Warden Work Activities

**Department of Fish, Wildlife and Parks
Law Enforcement Division**

Members of the audit staff involved in this audit were Pamela Boggs, Tom Cooper, Joe Murray, and Mike Wingard.

Table of Contents

	List of Tables and Figures	iv
	Appointed and Administrative Officials	v
	Report Summary	S-1
Chapter I	Introduction	1
Introduction	Audit Objectives	1
	Audit Scope and Methodology	1
	Compliance	3
	Management Memorandum	3
Chapter II	Introduction	5
Background	Department Organization	5
	Decentralized System	6
	Law Enforcement Division	7
	What are Game Warden Responsibilities?	9
	Game Warden Enforcement Powers	10
	Other Duties	11
	Three Levels of Game Wardens	11
	Collective Bargaining Agreement Specifies Work Hours	11
	Laws and Regulations Have Increased	12
	Outdoor Recreational Activities Occur Year-Round	12
	Many People Participate in Outdoor Activities	13
	Big Game Hunting	13
	Fishing	16
	State Parks	16
	Other Activities Have Increased	16
	Summary	17
Chapter III	Introduction	19
Enforcement Work	Documentation Used in Analysis	19
Activity Analysis	Analysis Distinguishes Between Patrol and Non-Patrol Activities	20
	Activity Codes Document Patrol Accomplishments	20
	How Are Non-Patrol Activities Documented?	21
	Examples of Non-Patrol Activities	22
	Four Categories of Non-Patrol Activities	22

Table of Contents

	Patrol/Non-Patrol Work Activities	23
	Warden Budget Documentation	24
	Project Codes Track Expenditures and Hours	24
	Regional Work Plans Describe Annual Warden Activities . . .	25
	Conclusion: Wardens Typically Determine Their Own Work Priorities	25
Chapter IV	Introduction	27
Resource-Based Priority	Current Development and Utilization of Work Plans Does Not Establish Division or Regional Priorities	27
Process Needed	Why Aren't Work Plans a Management Tool?	28
	Lack of Useful and Accurate Management Information	28
	Division is Unable to Determine Efficiency	29
	Why an Alternative Approach is Needed	29
	Other States Faced Similar Problems as Montana	30
	Two States Established Field Resource Priorities	30
	Public Involvement Enhances Priority Setting	31
	Compliance Rate Provides Measurable Outcome for Enforcement	31
	Data Collection Relates to Resource Priorities	32
	Mutual Priorities Needed to Improve Effectiveness	32
Chapter V	Introduction	35
Other Work Activity	License Fraud Investigation	35
Issues	Legislature Emphasizes License Fraud Enforcement	36
	HJR 3 Examined License Fraud Investigation Statutes . .	36
	Resource and Opportunity Loss to Legal License Holders	36
	Lost Opportunities Result	37
	How is License Fraud Currently Investigated	37
	Limited Time Spent on License Fraud	38
	Central Investigations would be Most Effective	39
	Sportsman's Database Lacks Credibility	40
	DFWP Examining an Automated Licensing System	41
	Conclusion	41
	Ex-Officio Game Warden Program	41
	Types of Ex-Officio Wardens	42
	Program Has Few Controls	42

Table of Contents

Program is Not an Effective Supplement to Law	
Enforcement Activities	43
Original Purpose of Ex-Officio Program	44
Summary	44
TipMont Operations	45
What is TipMont?	45
How Does TipMont Work?	46
Limited Management Information and No Policies and Procedures	46
Summary	47
Controls Over Citations Should be Improved	48
One Control No Longer Exists	48
Large Amounts of Money Collected	48
Other Law Enforcement Agencies Have More Controls	49
Establish Formal Policies and Procedures	50
Agency Response	
Montana Department of Fish, Wildlife & Parks	53

List of Tables and Figures

<u>Table 1</u>	Seasonal Enforcement Responsibilities	12
<u>Table 2</u>	Increases In Off-Highway Vehicles, Snowmobiles, and Boats .	16
<u>Table 3</u>	Patrol Related Activities	21
<u>Table 4</u>	Non-Patrol Activities	22
<u>Table 5</u>	Breakout of Warden Activities	24
<u>Figure 1</u>	DFWP Organization	6
<u>Figure 2</u>	DFWP Regional Map	7
<u>Figure 3</u>	Law Enforcement Division Organization	8
<u>Figure 4</u>	Law Enforcement Division Staffing Fiscal Year 1995-96	9
<u>Figure 5</u>	Elk and Deer Hunter Days Elk and Deer Licenses Sold 1986-94	14
<u>Figure 6</u>	Big Game Hunter Days (All Species) Big Game Licenses Sold (All Species) 1986-94	15

Appointed and Administrative Officials

Fish, Wildlife and Parks Commission

Stan Meyer, Chairperson	Great Falls
David W. Simpson, Vice Chairperson	Hardin
Darlyne Dascher	Fort Peck
Charles R. Decker	Libby
Dale R. Tash	Dillon

Department of Fish, Wildlife and Parks

Pat Graham, Director

Bob Martinka, Chief of Staff Operations

Beate Galda, Administrator, Law Enforcement Division

Report Summary

Introduction

State law authorizes the Department of Fish, Wildlife and Parks (DFWP) to enforce all fish, wildlife, and parks laws and regulations. The department's Law Enforcement Division (LED) helps accomplish this goal.

This performance audit examined LED operations. The primary objective was to determine if the division has an effective process for supervising game warden work activities.

What Are Game Warden Responsibilities

Game wardens are commissioned peace officers responsible for law enforcement duties involving all statutes and department rules relating to fish, wildlife, and parks. In addition, they are responsible for laws relating to other outdoor recreational activities such as off-highway vehicles, snowmobiling, boating, and trapping. Other game warden responsibilities include landowner contacts, taxidermist inspections, licensing agent audits, and administering confiscated game sales.

Warden Numbers Have Remained Stable

There have been increases in the number and complexity of fish, wildlife, and parks laws and regulations which game wardens have had to enforce the past 20 years. In addition, participation in many outdoor recreational activities have increased. For example, more people are hunting and the numbers of off-highway vehicles, snowmobiles, and boats have increased. At the same time, game warden numbers have remained fairly stable over the last 20 years. In fiscal year 1975 there were approximately 64 field wardens compared to 66 in fiscal year 1995. Although warden responsibilities have increased there has been no corresponding increase in the number of wardens. Therefore, it is important that existing wardens' time and energies be used in the most efficient manner possible. Our analysis reviewed game warden activities to determine if the LED and DFWP use game wardens in an efficient and effective manner.

Chapter I - Introduction

Introduction

Section 87-1-201, MCA, sets forth the powers and duties of the Department of Fish, Wildlife, and Parks (DFWP). This law requires the department to ". . . supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state." The department's goal is to preserve, protect, enhance, and maintain Montana's wildlife and its habitat for present and future generations. State law authorizes the department to enforce all fish, wildlife, and parks laws and regulations. The department's Law Enforcement Division helps accomplish this goal.

The Legislative Audit Committee requested a performance audit of the Law Enforcement Division. A preliminary review was done to become familiar with division operations and set audit objectives. The following sections describe the objectives and audit scope.

Audit Objectives

The objectives of the audit were to:

1. Provide information to the Legislature regarding work activities of game wardens.
2. Determine if the Law Enforcement Division has an effective process for establishing and assigning game warden work priorities.
3. Evaluate ex-officio game warden program administration and usage.

Audit Scope and Methodology

The audit was conducted in accordance with government auditing standards for performance audits. Audit work was done both centrally (Helena) and throughout the state. The division's process to prioritize work activities and assign them to game wardens was evaluated. Other areas which affect division work activities were also reviewed. These areas included the division's Notice-to-Appear database, ex-officio game warden program, and the TipMont program. TipMont provides the public with a toll-free phone line to notify the division of actual or potential fish and wildlife-related crimes.

Chapter I - Introduction

Statistics were compiled to determine the extent to which some recreational activities have increased over the last several years. These include activities such as hunting, fishing, snowmobiling, boating, and off-road vehicle usage. Changes in fish, wildlife, and parks statutes and regulations were also reviewed to determine impact on division operations.

Interviews were conducted with management and staff from the Law Enforcement Division, Wildlife Division, Fisheries Division, and Field Services Division, as well as department budgeting staff. Various enforcement activities of game wardens were also observed. This included hunting and fishing patrols, confiscated game sales, simulated wildlife decoy program, check station activities, warden training, and license fraud investigation. These interviews and observations provided an overall perspective regarding division operations.

The department has separated the state into seven geographic regions. This analysis concentrated on regions 2 (Missoula), 3 (Bozeman), and 5 (Billings). All available documentation relating to division work activities was examined. Information was compiled from these records to determine division use of its game wardens. The records analysis was followed-up by interviews with game wardens, warden sergeants, warden captains, division management, and department management.

Records for the department's ex-officio game warden program were reviewed. This included lists of DFWP staff assigned ex-officio game warden status, citations issued by ex-officio game wardens, evaluating ex-officio game warden training, and examining the program's legislative intent.

Documentation associated with the TipMont program was reviewed to assess program operations and interviews were conducted with division personnel. This information was also considered in determining program effect on the division's overall work activities.

Fish and wildlife agencies in other states and other Montana law enforcement agencies were contacted to establish criteria for enforcement work priorities.

Compliance

Compliance with state statutes and administrative rules relating to fish, wildlife, and parks was examined. The division is generally in compliance with the enforcement-related laws and rules.

Management Memorandum

During the audit, a management memorandum was issued addressing the following issue:

Game Wardens Conducting Non-Enforcement Activities - The division could establish contracts with the private sector to conduct some non-enforcement related activities. These might include confiscated game sales, delivery and installation of game damage fences, delivery of license material to license agents, and entry of citations into the division's citation database. This could help improve how the division uses its game wardens by freeing up more of their time.

Chapter II - Background

Introduction

The DFWP's mission statement says "its employees and citizen commission provide for the stewardship of the fish, wildlife, parks, and recreational resources of Montana, while contributing to the quality of life for present and future generations." In addition, the department has created a vision document which generally describes the operating environment the department expects in the coming years. This includes increased:

- Interest in preserving fish, wildlife, and parks resources.
- Demand for public involvement in resource decisions and for increased department accountability.
- Value and competition for fish, wildlife, and parks resources.
- Department responsibilities and more need to define, defend, and coordinate management decisions.

To help meet its mission and future vision, the department enforces laws and regulations relating to fish, wildlife, parks, and other recreational activities.

Department Organization

A five member Fish, Wildlife, and Parks Commission provides policy to the department for resource management, length of hunting/fishing seasons, and use of lands owned or controlled by the department. Commission members are appointed by the Governor and confirmed by the Senate.

Department headquarters are located in Helena and staff have direct interaction with the Fish, Wildlife, and Parks Commission.

Department management is responsible for setting department direction regarding policy, planning, program development, guidelines, and budgets.

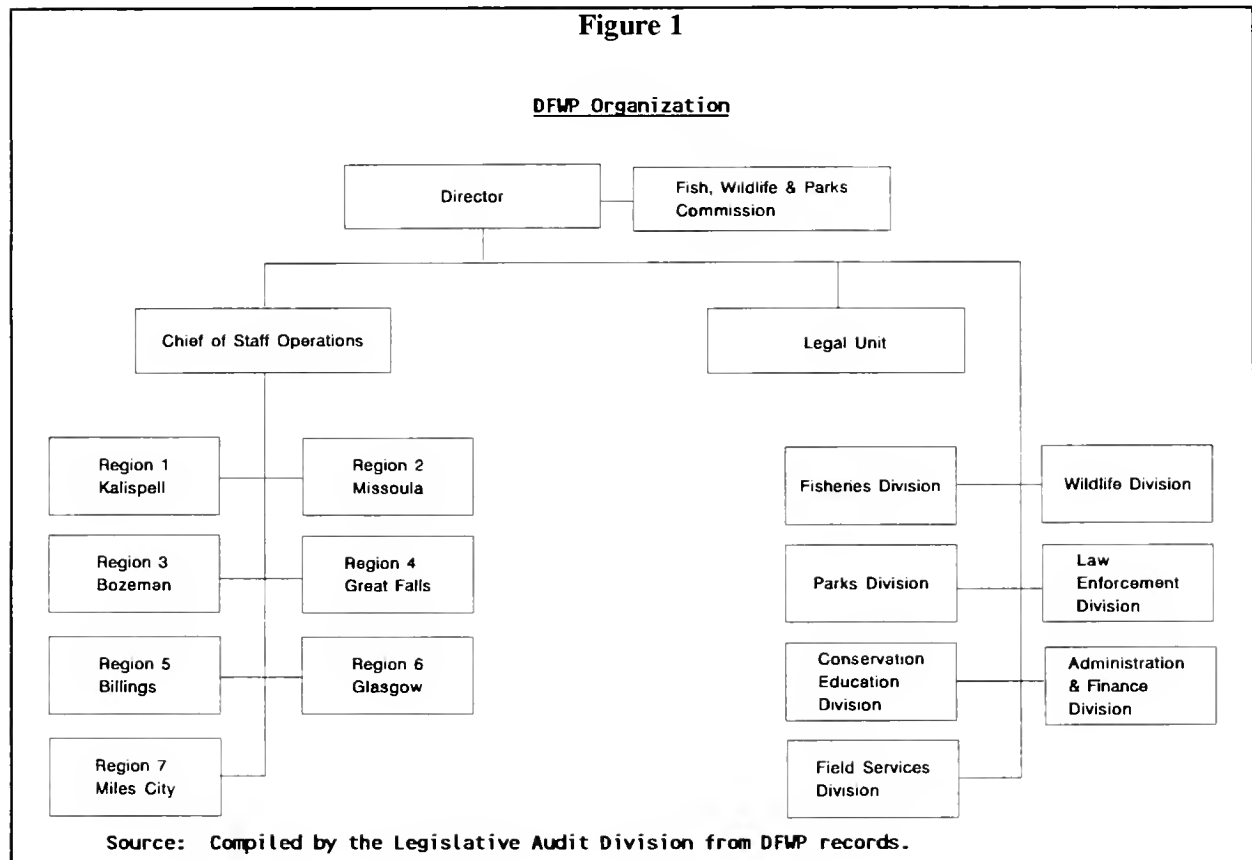
The department consists of seven divisions.

- Administration and Finance
- Conservation Education
- Field Services
- Fisheries
- Wildlife

Chapter II - Background

- Parks
- Law Enforcement

The following figure shows DFWP's current organization and reporting structure.



Decentralized System

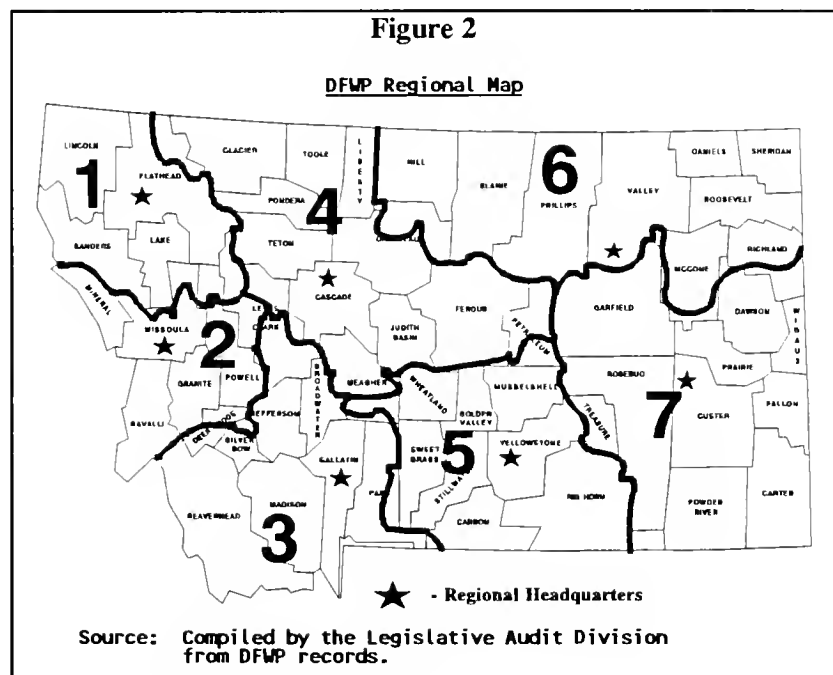
The department's organizational structure consists of a decentralized system. The department has divided the state into seven geographic regions noted above to help manage unique ecosystems in different parts of the state. As noted previously, audit work focused in the Bozeman, Missoula, and Billings regions.

The regions are responsible for implementing department policy and other decisions affecting fish, wildlife and parks. Each department division has program managers and staff within the regions. Program managers supervise day-to-day activities for

Chapter II - Background

individual program activities and report to a regional supervisor. Warden captains are the program managers for regional law enforcement activities.

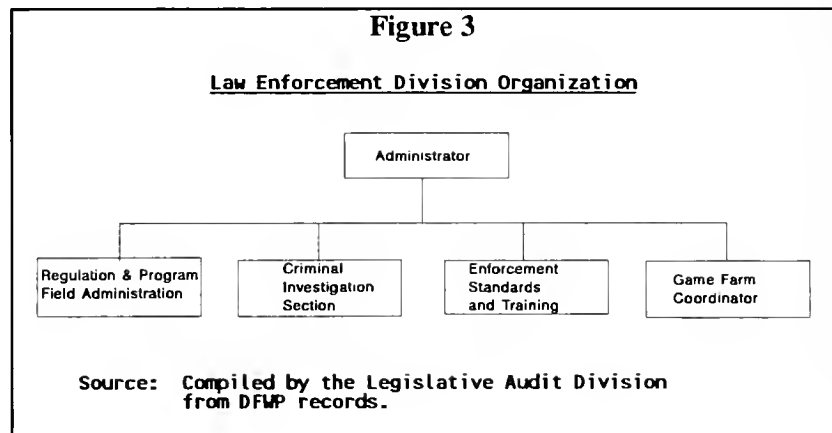
A regional supervisor administers overall activities within the regions. This includes providing recommendations on program development and department guidelines to DFWP headquarters in Helena. Regional supervisors report to the department's chief of staff operations. However, there is also some communication and coordination between the regions and the divisions. The following figure illustrates how the state is divided into regions.



Law Enforcement Division

Section 87-1-502, MCA, designates the DFWP as a criminal justice agency. This statute grants authorized officers of the department peace officer status. Law enforcement activities are primarily centered within the Law Enforcement Division (LED). The division's mission is to protect Montana's fish, wildlife, and park resources. The figure below shows the division's organizational structure.

Chapter II - Background



A division administrator manages LED operations. Duties of the administrator include personnel management, developing division guidelines and priorities, developing resource policy, conducting biennial field reviews of division programs, and providing fiscal oversight. The previous division administrator held the position for 17 years until retirement about a year-and-a-half ago. At that time, a new administrator was hired.

Division activities in Helena are divided into four separate sections described below.

Regulation and Program Field Administration - This section helps establish division policy, direction, and budgets.

Criminal Investigation Section (CIS) - This is the division's investigative unit responsible for both covert and overt investigations. The main goal of CIS is to reduce violations by developing sufficient information to prosecute violators who can not be apprehended through other avenues.

Enforcement Standards and Training - This section is responsible for monitoring and planning training for enforcement personnel and ensures enforcement personnel maintain their enforcement credentials. This section also administers TipMont operations.

Game Farm Coordinator - The game farm coordinator is responsible for coordinating game farm activities around the state. This position acts as a liaison between game farm operators and the department.

Chapter II - Background

The LED has 96.33 Full-Time Equivalent (FTE) which includes the division administrator. The majority of division staff are game wardens assigned to specific warden districts within the regions. The following figure describes central office and field division staff for fiscal year 1995-96.

Figure 4

<u>Law Enforcement Division Staffing</u>				
<u>Fiscal Year 1995-96</u>				
<u>CENTRAL OFFICE (HELENA)</u>				<u>FTE</u>
<u>Administration:</u>				
Administrator				1.00
Program Manager				1.00
Training Officer				1.00
Game Farm Coordinator				1.00
Support Staff				2.00
<u>CIS:</u>				
Supervisor				1.00
Investigator				3.00
Office Manager				1.00
Total				<u>11.00</u>
<u>FIELD STAFF</u>				
<u>Region</u>	<u>Field Wardens</u>	<u>Warden Sergeants</u>	<u>Warden Captains</u>	<u>Other*</u>
Kalispell	9.00	1.00	1.00	0.83
Missoula	9.00	2.00	1.00	0.50
Bozeman	14.00	3.00	1.00	0.75
Gt.Falls	12.00	1.00	1.00	0.00
Billings	9.00	1.00	1.00	0.25
Glasgow	6.00	1.00	1.00	0.00
Miles City	7.00	1.00	1.00	0.00
Total	<u>66.00</u>	<u>10.00</u>	<u>7.00</u>	<u>2.33</u>
* Includes 1.50 FTE warden trainee and a .83 FTE warden technician.				
Source: Compiled by the Legislative Audit Division from DFWP records.				

What are Game Warden Responsibilities?

Game wardens are commissioned peace officers responsible for law enforcement duties involving all statutes and department rules relating to fish, wildlife, and parks. In addition, they are responsible for laws relating to other outdoor recreational activities such as boating, snowmobiling, and trapping. They are members of Montana's law enforcement community and work closely with

Chapter II - Background

other enforcement agencies at the city, county, state, and federal levels. They are required to complete and maintain the Peace Officer Standards and Training certification, which includes graduation from Montana's Law Enforcement Academy.

Game Warden Enforcement Powers

Section 87-1-506, MCA, spells out some of the general enforcement powers of game wardens. These include:

- Serve subpoenas issued by a court for the trial of a violator of fish and game laws.
- Search, without a warrant, any tent not used as a residence, any boat, vehicle, box, locker, basket, creel, crate, game bag, or package upon probable cause to believe that any fish or wildlife law or regulation has been violated.
- Search, with a warrant, any dwelling or building.
- Seize fish, wildlife, game birds, and fur-bearing animals taken in violation of fish and wildlife laws or regulations.
- Seize devices which have been used to unlawfully take fish, game, birds, or fur-bearing animals.
- Arrest violators of fish and wildlife laws and regulations.
- Enforce the disorderly conduct and public nuisance laws as they apply to the operation of motorboats.
- Investigate and make arrests for violations pertaining to the regulation of outfitters and guides in the state.
- Exercise the other powers of peace officers in the enforcement of fish and wildlife laws.

Game wardens also have enforcement powers for state parks, stream use, boating, snowmobiles, off-highway vehicles, commercial wildlife activities, and state lands access.

Other Duties

In addition to these enforcement powers, game wardens have a number of other responsibilities, including:

- Investigations.
- Landowner contacts.
- Taxidermist inspections.
- Licensing agent audits.
- Confiscated game sales.
- Nuisance and problem animal complaints.
- Gather various biological data.
- Public education seminars, such as hunter safety courses.

Three Levels of Game Wardens

There are three levels of game wardens: warden captains, warden sergeants, and field wardens. All three levels enforce fish and wildlife laws and regulations but each has unique responsibilities described below.

Warden Captains - are responsible for administering overall regional enforcement activities and other activities assigned to the division. Warden captains monitor regional law enforcement budgets and evaluate regional game warden performance. They report to and take direction from the regional supervisor.

Warden Sergeants - are the immediate supervisors for field wardens within their region. In addition to planning and performing regional enforcement operations, they also coordinate personnel duty assignments, assist captains in evaluating program accomplishments and warden performance. Warden sergeants report to the warden captain.

Field Wardens - are the front line enforcement officers. They are assigned to specific warden districts averaging 2,100 square miles in size. Their duties include field patrols, investigations, and a variety of other enforcement and non-enforcement duties.

Collective Bargaining Agreement Specifies Work Hours

Field wardens are on call 24 hours a day. However, a collective bargaining agreement has been established between field wardens and the state of Montana providing guidelines for work hours. This agreement defines a regular work period as 80 hours during a 14 day period (2,080 work hours for the year). The contract allows field wardens to be paid up to 72 hours of overtime during the year. If more than 72 hours are worked, then one and one-half

Chapter II - Background

hours of compensatory time can be earned for each additional hour of overtime. Compensatory time can be accrued up to a maximum of 120 hours but must be reduced to zero by the end of May and again at the end of September.

Laws and Regulations Have Increased

Laws and regulations related to fish, wildlife, and parks have increased over the past two decades. Off-highway vehicles, parks, and bison control are all examples of enforcement activities which were not part of warden responsibilities 20 years ago. In addition, the complexity of hunting and fishing regulations have further increased enforcement requirements. For example, numerous streams have multiple fishing regulations specifying different catch limits and bait restrictions. These restrictions did not exist 20 years ago.

Outdoor Recreational Activities Occur Year-Round

There are a variety of outdoor activities continuously occurring throughout the year requiring game wardens to enforce laws associated with these activities. The following table provides a general description of seasonal enforcement responsibilities for wardens.

Table 1				
Seasonal Enforcement Responsibilities				
Activities	Fall	Winter	Spring	Summer
Fishing	X	X	X	X
Hunting	X	X	X	
Off-Highway Vehicles	X	X	X	X
Snowmobile	X	X	X	
Water-related	X	X	X	X
Trapping	X	X	X	
Parks	X		X	X
Source:	Compiled by the Legislative Audit Division from DFWP records.			

Many People Participate in Outdoor Activities

Many people participate in a variety of outdoor activities. We compiled information regarding activity levels for some of these outdoor activities. The following sections describe our analysis of the activities reviewed.

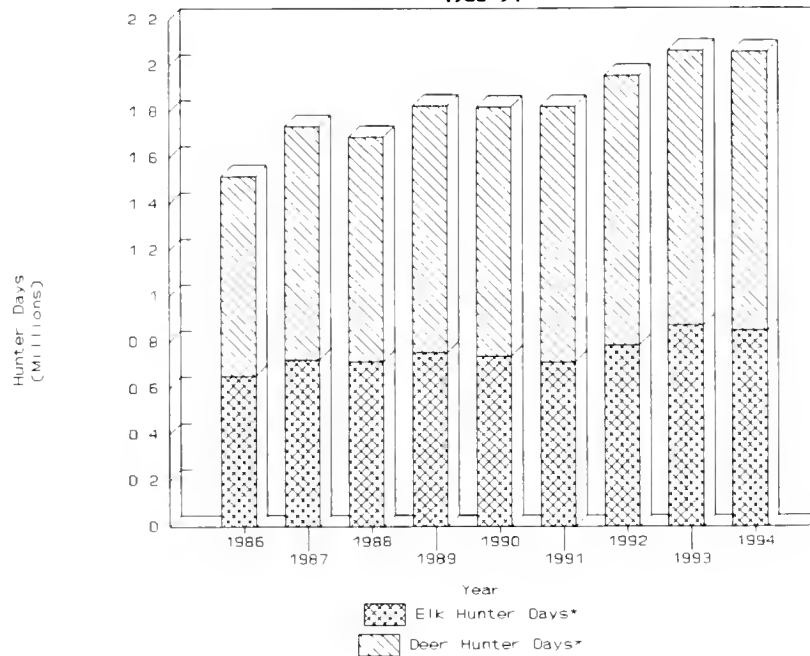
Big Game Hunting

Big game includes deer, elk, antelope, black bear, moose, mountain goat, mountain sheep, and mountain lion. We compiled statistics relating to big game hunting since it is considered one of the most popular outdoor activities. Information compiled included the number of hunting licenses sold and total hunter days. Hunter days are the total number of days resident and nonresidents spend hunting. The number of licenses sold and hunter days have increased between 1986 and 1994. Figure 5 provides information regarding hunting days and licenses sold for two of the more popular big game species (deer and elk). Figure 6 summarizes this information for all big game species.

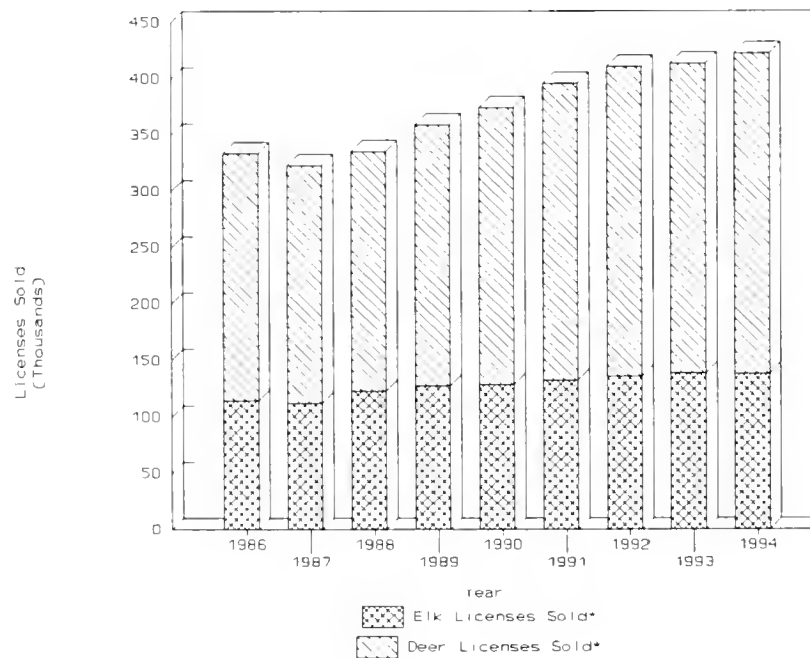
Chapter II - Background

Figure 5

**Elk and Deer Hunter Days
1986-94**



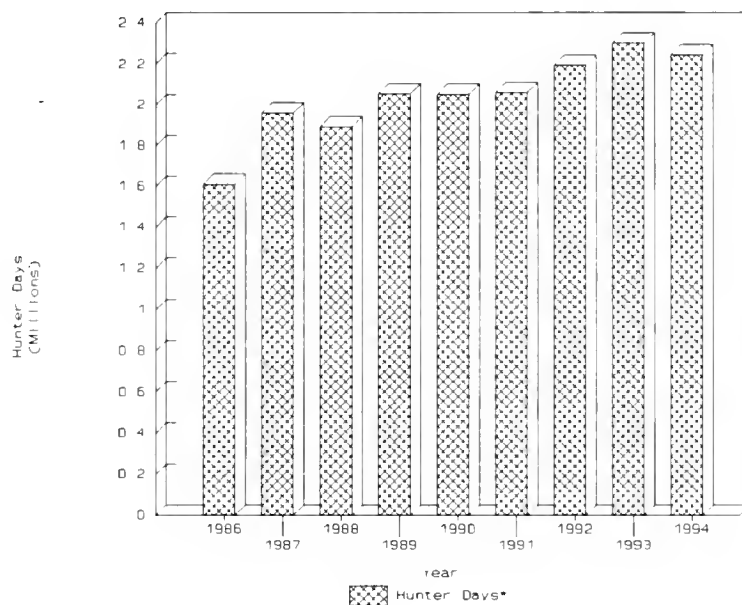
**Elk and Deer Licenses Sold
1986-94**



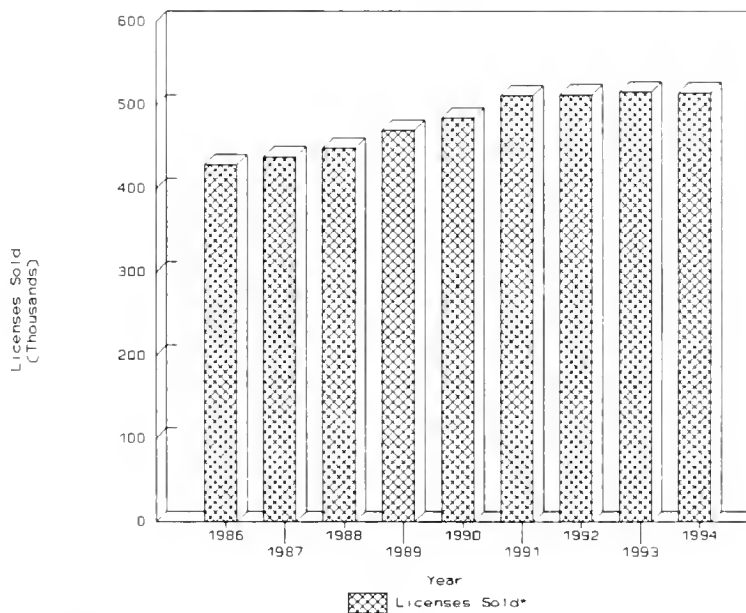
* Resident plus Nonresident

Source: Compiled by the Legislative Audit Div. from DFWP annual harvest reports and licensing records.

Figure 6
Big Game Hunter Days (All Species)
1986-94



Big Game Licenses Sold (All Species)
1986-94



* Resident plus Nonresident

Source: Compiled by the Legislative Audit Div. from DFWP annual harvest reports and licensing records.

Chapter II - Background

Fishing

Total fishing days are the total number of days resident and nonresident anglers spend fishing. For the last ten years, total fishing days have remained at over two million days per year.

State Parks

The state has 41 state parks totalling over 30,000 acres which the department administers. In 1994, over one million people visited and utilized these parks. Game wardens (in addition to DFWP park rangers) are responsible for enforcing laws and regulations related to the state park system.

Other Activities Have Increased

To determine if there have been increases in other recreational activities, we compiled information regarding increases in the number of Off-Highway Vehicles (OHV), snowmobiles, and boats. State law requires OHVs, snowmobiles, and boats be registered in order to legally operate in the state. Game wardens are responsible for inspecting them to ensure they are properly registered when operating on public lands. The following table illustrates the significant increase in the number of OHVs, snowmobiles, and boats.

Table 2		
<u>Increases In Off-Highway Vehicles, Snowmobiles, and Boats</u>		
<u>Category</u>	<u>Year</u>	<u>Total Estimated*</u>
OHVs	1990*	6,966
	1994	22,733
Snowmobiles	1984	45,275
	1994	66,637
Boats	1990*	43,825
	1994	63,622
* Records were not maintained on OHVs or boats prior to 1990		
Source: Compiled by the Legislative Audit Division from Department of Justice records.		

We also compiled information regarding number of taxidermists operating in the state. State law requires taxidermists to be licensed and authorizes wardens to inspect taxidermists. These inspections include verification of taxidermist licenses, inspection of harvested wildlife, and examination of documentation as to where harvested wildlife has been shipped and to whom. There

has been a 44 percent increase in taxidermists during the last ten years. In 1985 there were 229 taxidermists compared with 411 in 1995.

Summary

There have been increases in the number and complexity of fish, wildlife, and parks laws and regulations which game wardens have had to enforce the past 20 years. In addition, participation in many outdoor recreational activities have increased. For example, more people are hunting and the numbers of OHVs, snowmobiles, and boats have increased. At the same time, game warden numbers have remained fairly stable over the last 20 years. In fiscal year 1974-75 there were approximately 64 field wardens compared to 66 in fiscal year 1994-95. Although warden responsibilities have increased there has been no corresponding increase in the number of wardens to address these additional responsibilities. Therefore, it is important that existing wardens' time and energies be used in the most efficient manner possible. Our analysis reviewed game warden activities to determine if the LED and DFWP use game wardens in an efficient manner. This analysis is discussed in chapter III.

Chapter III - Enforcement Work Activity Analysis

Introduction

Enforcement work activities were analyzed to evaluate the process used by the Law Enforcement Division to assign and prioritize work done by game wardens. This chapter discusses how this analysis was done and the various documentation reviewed. Chapter IV addresses the issues which resulted from this analysis.

Documentation Used in Analysis

A variety of department and division documentation was used to help analyze enforcement work activities. Documentation included:

Daily Activity Diaries - Game wardens record daily activities using specific project and activity codes and narrative descriptions of activities.

Monthly Service Records - Reflects coded activities from daily diaries. This includes citations, contacts, and license or registration checks.

Warden Accomplishment Reports - Reflects coded activities compiled from monthly service records. They indicate accomplishments for both the region as a whole and individual wardens.

DFWP Time Forms - Game wardens record work hours including holiday, vacation, and sick leave by project code.

Law Enforcement Regional Work Plans - Outlines regional law enforcement objectives and activities to support project code funding and FTE.

End-of-Year Progress Reports - Assesses work plan objectives using data from monthly service records.

Vehicle Expense Reports - Reflects vehicle expenses by specific project codes for game warden vehicles. These reports show expenses such as gasoline, oil/lube, repairs, and maintenance charges.

Notice-to-Appeal Information - Reflects citations written by wardens. This includes the number of citations and types of violation.

Monthly Budget Summary Forms - Tracks enforcement expenses and budget availability by project for game wardens.

Chapter III - Enforcement Work Activity Analysis

This documentation was first reviewed to determine usefulness for analyzing work assignment and priorities. While all documentation was used to some degree, daily diaries were the most useful.

Following documentation analysis, we conducted follow-up interviews with captains, sergeants, and wardens to clarify documented activities. We also interviewed division and department management to obtain their perspective.

Analysis Distinguishes Between Patrol and Non-Patrol Activities

Based on our analysis of daily diaries and game warden interviews, we categorized activities for field wardens and warden sergeants into patrol and non-patrol activities. Through our interviews, we obtained consensus on how we categorized activities. The categories are listed in tables three and four.

Patrol is the primary method used by wardens to observe activities occurring within their region. Patrol activities are accomplished by using assigned vehicles, off-road vehicles, snowmobiles, horses, or on foot. Non-patrol activities include warden duties such as administration, response to public complaints, investigative case work, and various miscellaneous activities. We did not specifically evaluate captains because their primary role is administration and supervision.

Activity Codes Document Patrol Accomplishments

Wardens record/track patrol activity in daily diaries using a list of activity codes. The following table lists patrol-related activities currently tracked by wardens.

Chapter III - Enforcement Work Activity Analysis

Table 3

Patrol Related Activities

Hunter Checks	Game Farm Inspections
Angler Checks	Landowner Contacts
Trapper Checks	Outfitter Contacts
Boat Checks	State Lands Access
Snowmobile Checks	Illegal Fish Introduction
Off-road Vehicle Checks	Illegal Wildlife Introduction
State Park Patrol	Notices to Appear
Taxidermist Inspections	Courtesy Citations
License Agent Audits	Verbal Warnings

Note: In addition to the above patrol activities, the current activity codes include hunter education and fish, wildlife, and parks public relations.

Source: Compiled by the Legislative Audit Division from DFWP records.

Wardens transfer activity code information from daily diaries to monthly service records. These documents are forwarded to LED where quantitative activity code data is compiled into monthly and annual summaries reflecting region and warden activities.

The primary use of activity information is warden appraisal or evaluation. Activity code data collection was not developed for workload-related decision-making. Division management recognizes current activity codes do not reflect all of a warden's work, such as non-patrol activities.

How Are Non-Patrol Activities Documented?

Non-patrol information is recorded in the narrative section of daily diaries. Some captains review all daily diaries to keep informed of warden activity. Others require a narrative summary to be submitted along with monthly service records. However, this information is not compiled or summarized by LED like patrol-related activities. This issue is discussed further in chapter IV. Wardens said the narrative's purpose is to refresh their recollection of events surrounding a case or a particular day's activities.

Chapter III - Enforcement Work Activity Analysis

Examples of Non-Patrol Activities

To distinguish between patrol and non-patrol, table 4 details a list of warden activities documented in the narrative section of the daily diaries sampled.

Table 4

Non-Patrol Activities

Administration
Training
Vehicle Maintenance/Repair
Equipment Maintenance/Repair
TipMont Response
Investigations
Assist Other Law Enforcement Agencies
Search and Rescue
File Tickets
Court Preparation
Miscellaneous Public Response
Landowner Preference Applications
Decoy Manufacture
Animal Tagging/Tooth Collection
Nuisance Animals
License Agent Deliveries
Private Fish Pond Checks
Game Damage Fence Installation
Game Farm Research
Animal Reduction
Fish/Wildlife Management Activity
Game Sales
Bison Control

Source: Compiled by Legislative Audit Division from DFWP records.

Four Categories of Non-Patrol Activities

We summarized non-patrol activities into four major categories:

Administration - Includes routine office work, monthly service record preparation, vehicle expense tracking, payroll processing, meetings, equipment maintenance and repair, and training.

Public response - Includes receipt and response to public calls or contacts concerning nuisance animals, violation tips, complaints, animal tagging or tooth collection, trophy permit issuance, and game damage response. Wardens view public response as a reactionary activity; when the public calls a response is necessary.

Chapter III - Enforcement Work Activity Analysis

Case work - Includes investigations, filing citations with courts, warrant preparation and issuance, court preparation and testimony, and cooperation on cases with other state and federal law enforcement agencies. Case work is directly influenced by public response activity. If wardens are primarily involved in case work, then they have less public response activity. Staff interviews confirm this trade-off occurs, but it is not always controllable by wardens. For example, in suburban areas or areas where landowner cooperation is important, wardens react more often to public calls and cannot pursue as much investigation activity. In most districts, wardens individually decide the trade-off of public response for case work; an increase in one means a decrease in the other.

Miscellaneous - Includes game sales, game farm research/support, licensing agent activity, and a combination of wildlife, fisheries, and/or parks-related activity.

Patrol/Non-Patrol Work Activities

Our analysis of daily diaries indicates 60 percent of warden and sergeant work activity is patrol-related and 40 percent is non-patrol. For field wardens about 65 percent is patrol activity, while non-patrol is 35 percent. For sergeants the ratio is the opposite, 35 percent for patrol and 65 percent for non-patrol.

The following table shows the amount of time wardens spend in the four categories of non-patrol activities. It also shows what percentage these categories are for total warden activities (patrol and non-patrol activities). These percentages are based upon a review of selected warden diaries for the three regions reviewed. This information was discussed with department and division management. They believe these percentages generally reflect warden activities statewide.

Chapter III - Enforcement Work Activity Analysis

Table 5

Breakout of Warden Activities

<u>Warden Type</u>	<u>Patrol Activities</u>	<u>Non-Patrol Activities</u>			
		<u>Adminis- tration</u>	<u>Public Response</u>	<u>Case Work</u>	<u>Misc.</u>
Warden Sergeant	35%	35%	11%	11%	8%
Field Warden	65%	13%	9%	10%	3%

Source: Compiled by the Legislative Audit Division from warden daily diaries from regions 2, 3, & 5.

Warden Budget Documentation

During the analysis we examined budget distribution, tracking, and control. Two types of warden budget-related documentation were evaluated: operating expenses and hours worked.

Most law enforcement funding comes from general license sales revenue. Other funding includes appropriations from registration of snowmobiles and OHVs. The majority of budget distribution for regional law enforcement functions and individual wardens is determined through a budget development and review process involving regional and department staff.

Project Codes Track Expenditures and Hours

Project codes are used to track budget expenditures (dollars and hours). Wardens record expenditures against project codes as they accomplish enforcement activities. The primary project code for warden hours and operating expense is "base enforcement." Activities given this code are funded by general license fees and support most patrol and non-patrol activities. Approximately 90 percent of warden hours and expenses are coded to base enforcement.

The legislature also appropriates revenue for other specific projects such as snowmobile and off-highway vehicle registration, parks, game damage, and boat safety enforcement. The remaining 10 percent of warden activities are designated to project codes such as these. Concerns were identified relating to the accuracy of how

Chapter III - Enforcement Work Activity Analysis

warden activities are recorded and tracked with these codes. This issue is discussed further in the next chapter.

Regional Work Plans Describe Annual Warden Activities

Annual work plans are completed by the regional program managers to reflect regional objectives. All regional functions (fisheries, wildlife, parks, and enforcement) develop individual work plans. For law enforcement, typical examples of regional enforcement work plan objectives include:

- Achieve a satisfactory level of compliance through contact with anglers and hunters.
- Improve hunter access through enforcement of trespass laws.
- Emphasize game farm inspections.
- Respond to game damage complaints.

During annual work plan preparation, warden captains review the previous year's activity accomplishment summaries to help determine how many of each activity are necessary to support the identified objectives. For example, a fiscal year 1993-94 accomplishment summary would be reviewed to establish how many hunter license checks could be accomplished in fiscal year 1994-95. Department management officials require end-of-year assessments of work plans to show accomplishment of objectives.

Based upon interviews with warden captains and review of existing work plans, we identified concerns with the development and utilization of work plans as a designated priority-setting process. These concerns will be described in Chapter IV.

Conclusion: Wardens Typically Determine Their Own Work Priorities

While general work priorities for wardens are discussed during enforcement and department-wide meetings, division management typically relies on warden initiative and judgment to determine the best way to protect Montana's fish, wildlife and parks resources. Consequently, the individual wardens establish priorities based primarily upon their interpretation of what should be accomplished and when. For example, the decision to patrol rather than perform a non-patrol activity, such as case investigation is generally left up to the individual warden.

Chapter III - Enforcement Work Activity Analysis

As noted previously, patrol-related activities take up about 60 percent of a game warden's time. Patrol activity is used to identify a variety of violations and provide a law enforcement presence. According to wardens, patrol versus non-patrol decisions do not necessarily address fish and wildlife resource priorities such as protecting a trophy elk population or an endangered species. Rather, the decision to patrol relies on warden preferences and reaction to circumstances encountered during the work day. This reactive approach is at least partially due to the belief quick responses to public and landowner requests for enforcement is an important part of the department's role. However, due to more complex fish and wildlife regulations, expanding work responsibilities, number of people involved in outdoor activities, and public expectations regarding enforcement, wardens have determined "everything" they react to during a work day is the current top priority.

Since wardens are law enforcement personnel, they must be reactive in order to respond to certain situations. However, to better focus their activities on department goals regarding the protection of fish, wildlife, and park resources, they need to be more proactive than they currently are. The wardens' self-determined approach to their responsibilities has made them almost entirely reactive. As a result, it is difficult for either the division, legislature, or the general public to determine how successfully wardens are accomplishing the department's overall resource goals. The next chapter discusses the need for the division and department to adopt an alternative method of setting warden work priorities.

Chapter IV - Resource-Based Priority Process Needed

Introduction

Based upon interviews, observations, and review of daily diaries, game wardens demonstrate a strong commitment to protecting Montana's fish, wildlife, and parks resources. However, the Chapter III conclusion indicates individual wardens, rather than the division, establish the priority of the various warden activities and responsibilities. While the division can provide information on various warden accomplishments such as sportsperson contacts and citations issued, they cannot demonstrate how warden activities protect and/or promote resources. Successful organizations typically develop overall goals, objectives, priorities, and management information systems for measuring progress. These elements provide not only a means for self-evaluation of operations and program outcomes, but the ability to defend and/or expand those programs deemed successful.

Although the LED has some organizational elements which generally describe their activities, we identified issues related to lack of a coordinated planning and priority-setting process and an incomplete management information system. To resolve the concerns outlined in this chapter, we believe an alternative approach to planning and establishing priorities would improve the division and department's capability to protect and promote fish and wildlife resources. Only a single recommendation for findings in this chapter is provided because the alternative, a resource-based planning and priority-setting process, requires an integrated department-wide approach which simultaneously addresses all of the findings.

Current Development and Utilization of Work Plans Does Not Establish Division or Regional Priorities

As noted in Chapter III, warden captains develop annual work plans which describe enforcement objectives and quantify the level of effort to be given each noted objective. Based on interviews with warden captains and division management officials, as well as reviews of work plans, we developed concerns regarding the value of work plans as a management tool for prioritizing or evaluating warden activities.

Chapter IV - Resource-Based Priority Process Needed

Why Aren't Work Plans a Management Tool?

There are several reasons enforcement work plans are not a useful management tool. These include:

- LED management does not provide guidance on work plan development. This is evidenced by work plans staying the same year after year.
- Only captains and sergeants actively participate in work plan development. Work plans have not been distributed to the field wardens.
- LED management monitors progress relative to the activity levels but this does not include a formal critique to address incomplete or exceeded activity levels.
- Enforcement work plans do not reflect other DFWP division resource activities or objectives. A comparison between enforcement work plans and those for regional wildlife division activities supported this.

Currently, neither wardens nor captains specifically view or use work plans as a management tool because they are not designed to help schedule or prioritize enforcement workload. Additionally, there is no comprehensive coordination between regional programs which address mutual resource priorities. Enforcement work plans are viewed as a summary of statutory requirements and seasonal responsibilities and not a list of priorities.

Lack of Useful and Accurate Management Information

Current management information utilized by the division does not accurately reflect warden activities. Consequently, this information is not as useful as it could be for making sound management decisions.

The information collected and compiled by the division does not allow management to evaluate work activities to help decide warden assignments or establish priorities. While current data collection tracks how many times some warden activities occur, compiled data does not reflect time spent on individual activities and only documents patrol-related activities. Consequently, the division cannot distinguish between the amount of patrol and non-patrol activity for individual wardens.

Chapter IV - Resource-Based Priority Process Needed

The data collection process was not developed to include all warden activities or designed to help management make operational decisions. For example, the current process does not track non-patrol related activities. Current activity code and budget tracking procedures result in documentation which does not provide the division, department, or the legislature with a complete and accurate picture of enforcement work activities or achievements.

Division is Unable to Determine Efficiency

Lack of an enforcement priority-setting process does not contribute to a proactive workforce. Despite ever-increasing enforcement duties and responsibilities, neither the department nor division is able to determine workforce efficiency and effectiveness or initiate improvement as work activities increase. Division management's review of work activities currently focus on how many activities wardens have accomplished; not on assessing their efficiency or ability to protect fish, wildlife, or parks resources. Historically, division management has supported a data collection process which concentrates on counting information such as the number of citations issued or licenses checked without considering warden impact on fish, wildlife, or parks resources.

Why an Alternative Approach is Needed

In the preceding sections, we identified issues related to the lack of a coordinated planning and priority-setting process. These issues included:

- Documentation inconsistency.
- Limited management information.
- Work plan deficiencies.

Neither department nor division management has created a process to formalize enforcement work priorities. This is true even though the LED's goals indicate the division must have "clear, well understood priorities" due to increasing demands on the wardens' time. Depending on circumstances within a district, priorities could be either patrol or non-patrol activities. While these priorities are partially based on meetings with supervisors, wardens are also given the discretion to establish priorities. Therefore, if warden interest lies with patrol activities, then non-patrol activity is

Chapter IV - Resource-Based Priority Process Needed

limited. If warden interest lies with case investigation, cases are worked more intently than patrol activities. Current methodology also relies on independent warden reaction to circumstances encountered during random patrol. For example, warden decisions to shift from random patrol to patrolling areas with historically high numbers of violations might not be more effective from a resource perspective. Although this approach might increase citations it may not address fish, wildlife, or parks resource priorities.

The next section discusses an alternative approach to warden utilization which is based on the establishment of fish, wildlife and parks resource priorities and the protection of those resources.

Other States Faced Similar Problems as Montana

We contacted other states' fish and wildlife enforcement agencies to identify possible options for assigning and prioritizing enforcement work activities. There are several western states organizationally structured like Montana, which operate with wardens covering large geographic areas and independently determining work priorities. Like Montana, other states have seen statutory requirements and associated work activities increase significantly. Several states have found a reactive work philosophy combined with a work force setting its own priorities is not conducive to establishing clear, well understood work priorities. During analysis of LED's enforcement work activities, we developed similar concerns about the division's ability to measure the effectiveness of a mostly reactive work force.

Two States Established Field Resource Priorities

Two states, Oregon and Utah, have implemented an enforcement planning and priorities approach focused on a joint effort between fisheries, wildlife, and parks program management and enforcement staff. Wardens work with program managers to establish district resource priorities, related directly to fish, wildlife, and parks. Joint priorities are established for geographic districts and focus on biological concerns such as a wildlife population, or a social issue such as recreational use of a park. Teamwork between law enforcement officers and program managers help simplify hunting boundaries, season lengths, and fish and game limits.

Chapter IV - Resource-Based Priority Process Needed

These coordinated efforts help direct law enforcement patrol and allow law enforcement to become more focused on established resource priorities. Subsequently, wardens do not react to every potential enforcement issue brought to their attention.

Public Involvement Enhances Priority Setting

In Oregon, the resource-based process allows for public comment to a proposed district priority. Law enforcement officers still respond to public calls which do not fit into priority designations; however, with public understanding of district priorities, lack of response or delayed response by law enforcement to low priorities is not as damaging to the agency's image as it might be under the LED's "everything is a priority" approach. Development of a priority system for public response requests such as complaints, tips, and requests for assistance also makes law enforcement officers in other states less reactive. By screening calls, and using criteria approved by management, officers spend more time on established resource priorities already accepted by the public. Montana's current process does not do this.

Compliance Rate Provides Measurable Outcome for Enforcement

Other western states have established measurable outcomes for enforcement objectives. One outcome indicator used by other states to measure enforcement success is compliance rates. These rates reflect the compliance of resource users (sportspersons) with statutory and regulatory requirements. Compliance rates serve as a basis to determine what enforcement resources are necessary to achieve future, more acceptable levels of compliance. To establish user compliance, the projected number of license holders is compared to the number checked by wardens and to the number of violations recorded in a specific geographic area. Compliance rate information is collected while wardens patrol priority district areas. This information is then used to help determine accomplishment of law enforcement activities and measure/assess existing priority attainment.

Other states have found establishment of measurable outcomes serve another purpose as well. According to other states' officials, legislative intent of law enforcement appropriations is not to ensure 100 percent compliance with all fish and wildlife-related laws.

Chapter IV - Resource-Based Priority Process Needed

Instead, funding infers a level of enforcement effort, which means response to some infractions may not be possible or may be delayed due to funding limitations. The establishment of measurable outcomes which reflect achievement of enforcement objectives, allows an agency to assess performance and provides the legislature with a means to evaluate future funding needs. Montana's current data collection does not provide this type of compliance information.

Data Collection Relates to Resource Priorities

Enforcement outcome data collected by other states includes some information already being collected by LED. However, to be useful as an outcome measure, law enforcement data should be used in conjunction with biological, harvest, or other resource usage data to reflect achievement of resource priority objectives. Enforcement is only one of many players involved in the successful achievement of population and harvest objectives. Population and harvest information is an indirect indicator of the success of law enforcement activity and should be evaluated in conjunction with compliance rate information to reflect enforcement's role.

Other states track number of fishing or hunting hours to achieve a harvest level or rate. Law enforcement personnel compile the number of enforcement hours and license checks necessary to assure the legal harvest level. This information is used to help determine the enforcement levels needed to achieve targeted population increases or to improve legal harvest levels. For example, by recording patrol hours, license checks, and violations in a specific mountain range or river drainage for a selected priority species, legal harvest levels can be indirectly associated with enforcement activity. Then, management can determine law enforcement's impact and need for future modification.

Mutual Priorities Needed to Improve Effectiveness

We do not believe a law enforcement function is supposed to directly produce an end product like increased game or fish harvest or populations. However, enforcement is a tool which can directly compliment and improve successful fish or wildlife program management efforts. To more efficiently use this tool, the department and division should focus more attention on resource priority

Chapter IV - Resource-Based Priority Process Needed

protection instead of random enforcement of statutes and regulations.

In 1991, the department began an effort to change how they do business. In 1992, this effort provided a revised strategic plan and vision document with a mission statement and goals. In its mission and vision documents, the department recognized the importance of Montana's fish, wildlife, and parks as resource priorities and the public's demand for accountability. In addition, the LED's goals indicate the division should have direct and effective communications with other department divisions. However, a formal process has not been established where the LED consistently works with other divisions to assure mutual priorities are established to enhance resource management programs. This approach requires teamwork and joint planning between the LED and other DFWP divisions. Joint planning and priority setting could help improve LED's work activity documentation. In addition, work activity planning and formal priority-setting would make the division's game wardens more proactive.

We do not believe conversion to a joint planning and priority-setting process is a short-term project because it will significantly change how the department has operated for many years. Coordination and cooperation will be important. The department should begin by selecting districts in three or four regions and test variations of the resource-based concept. In succeeding years, more districts and regions should be included in the process, incorporating lessons learned from initial implementation.

Recommendation #1

We recommend the department implement a resource-based enforcement workload planning and priority-setting process.

Chapter V - Other Work Activity Issues

Introduction

Several activities and/or programs were identified during our work analysis which have an impact on warden workload. These include:

- license fraud investigation;
- sportsman's database;
- ex-officio warden program;
- TipMont program; and,
- control over citations.

While either division personnel in Helena or other department employees have administrative control over these programs/activities, wardens have responsibilities or involvement with each. Administrative or programmatic improvements in each could allow wardens and the division to more effectively use their resources. The following sections describe our concerns and recommendations.

License Fraud Investigation

Wardens and other division personnel identified license fraud as an important enforcement activity. However, while division personnel believe a large amount of license fraud is occurring, they indicated the department does not believe it is any more important than other enforcement areas.

License fraud occurs when someone illegally purchases a hunting or fishing license. One common type of license fraud occurs when a nonresident purchases a resident license by falsely claiming they are a Montana resident. Based on interviews with LED personnel and review of applicable documentation, we found the division's central office personnel and most game wardens spend limited time conducting license fraud investigations.

The following sections describe the potential extent and impact of license fraud and the division's process for investigating it.

Chapter V - Other Work Activity Issues

Legislature Emphasizes License Fraud Enforcement

The legislature considers license fraud to be an important department enforcement area based on its passage of House Joint Resolution (HJR) 3 and several laws it has established. For example:

- Nonresidents must pay substantially more money for hunting and fishing licenses than residents.
- State law defines who is a Montana resident. The definition of a resident was tightened further during the 1995 legislative session.
- The monetary penalties for nonresidents who claim residency are one of the highest fines which can be collected for violation of game laws.

The legislature's intent was to penalize those who claim false residency. At the same time, the legislature provided the DFWP with the legal means to punish people charged with this crime more severely than other game violations.

HJR 3 Examined License Fraud Investigation Statutes

The 1993 Legislature passed HJR 3 as a joint project between DFWP and Department of Revenue (DOR). It was conducted to determine if existing statutes provide the ability for these state agencies to investigate license fraud. A final report was prepared for the 1995 Legislature and was issued in December 1994.

The HJR 3 study concluded license fraud investigations can be accomplished with existing laws. However, the study did not address whether the department places enough emphasis on license fraud or if it effectively conducts license fraud investigations.

Resource and Opportunity Loss to Legal License Holders

In order to project the potential number of license fraud cases, we used the licensing data from HJR 3's final report. Based on this data, we project there were between 8,140 and 12,950 potential license fraud cases for 1991 licenses. This information reflects a potential license fraud rate between 4.3 and 6.9 percent of all license sales.

In 1991, 115,000 resident elk hunting licenses were sold. Using HJR 3 information, we project a minimum of 4,945 or 4.3 percent

Chapter V - Other Work Activity Issues

of these licenses may have been fraudulently obtained. If the department's 10-year elk harvest hunter success rate of 18 percent is applied to legal license and fraudulent license holders equally, we project 890 elk were illegally harvested in 1991 by nonresidents who posed as residents. Since the statutorily-established restitution value of elk is \$1,000, the resource loss is at least \$890,000. If the same logic is applied to the 122,000 elk licenses sold in 1994, the value of illegally harvested elk approaches one million dollars. This examination only reflects elk; other wildlife species and fish are also harvested by fraudulent license holders.

Lost Opportunities Result

In addition to the value of lost fish and wildlife resources, license fraud represents lost harvest opportunities to legal license holders. This is because an animal harvested by an illegal license holder means the animal is no longer available to legal license holders.

Because there is a limit on the number of nonresident big game permits, there is also a lost opportunity in the resident big game drawings for special hunting permits. Fraudulent permit holders may reduce the number of successful resident permit holders. Inclusion of fraudulent permit holders in the special drawings means a lower probability or possibly the loss of a chance at a "once in a lifetime" animal such as a moose, sheep, or goat. Department officials agree license fraud could impact the fairness of big game drawings.

How is License Fraud Currently Investigated

License fraud is investigated by game wardens and/or by a division employee located in Helena. This employee's job duties are split between the LED (.50 FTE) and the department's Special Licensing Section (.50 FTE). Responsibilities for this position are divided further within the LED between the Criminal Investigation Section (.25 FTE) and performing license fraud investigations (.25 FTE). License fraud investigation duties include identifying potential license fraud cases, conducting investigations, and then providing this information to game wardens so citations can be issued in cases where license fraud has been verified.

If information is not received from the employee in Helena, many wardens limit their license fraud investigation work to cases where other violations have been discovered or from information they

Chapter V - Other Work Activity Issues

receive directly, such as a tip. Some wardens will perform license fraud investigations as part of their day-to-day duties because they are interested in it.

License fraud investigations can be complex and time consuming due to the evidence necessary to prove a case. Basic steps an investigation may include would be:

- Review the department's sportsman's database to determine whether other licenses may have been purchased or to identify other related persons who may have fraudulently purchased a license.
- Contact the Montana Department of Revenue to determine if state income taxes were paid. Resident income tax payment helps establish residency.
- If no income taxes were paid, review the Department of Justice's drivers license data. This information helps determine how long a person has been in the state or when they claim residency was made.
- Review the Department of Justice's vehicle registration information to determine if/when vehicles are registered in the state.
- Conduct interviews with suspects and witnesses.

Limited Time Spent on License Fraud

The division's central office relies upon .25 FTE in Helena to perform all central license fraud investigations of general license purchases and special permit applications. In 1994, 623,000 resident hunting and fishing licenses were sold. In addition, 100,000 special applications were submitted to the 1994 big game drawing. According to this staff member, less and less time is dedicated to license fraud due to increasing responsibilities in other job duties. We found the LED currently has 138 cases pending investigation just in the Helena central office. Division staff indicated there are many cases dating back to 1992. The statute of limitations for license fraud is generally three years.

In addition, while game wardens perform some license fraud investigations, they indicated their other duties do not allow them to always spend the time necessary to complete many of their investigations. This was verified through review of the warden's

Chapter V - Other Work Activity Issues

daily diaries. For example, we identified one warden who has at least 14 cases pending investigation.

Central Investigations would be Most Effective

Since the DFWP is designated as a law enforcement agency it has an obligation to investigate license fraud. We believe the most efficient method would be to strengthen central office involvement. This would mean dedicating more resources centrally to control license fraud investigations. All the information needed to perform these investigations is available and accessible from Helena which is not the case with most game wardens. District wardens must travel to the regional office to use a computer to access licensing information on the department's sportsman's database.

A person located in the central office who investigates license fraud may need to have law enforcement training in order to issue citations and provide effective testimony in court.

To effectively conduct central license fraud investigations the department would also need to establish formal investigation procedures for license fraud. This might include:

- Determining the types of license fraud to pursue.
- Focusing on specific activities such as the big game drawing.
- Determining when wardens should be involved in license fraud investigations.

Recommendation #2

We recommend the department:

- A. Strengthen central office involvement in license fraud investigations.**
- B. Establish formal procedures for license fraud investigations.**

Chapter V - Other Work Activity Issues

Sportsman's Database Lacks Credibility

The sportsman's database is used to record the department's license information after licenses are sold by licensing agents. Information recorded includes the type of license and when it was purchased. Database information is used to conduct surveys of sportspersons and to help investigate potential license fraud. We reviewed the value of the database as an enforcement investigation tool by examining duplicate licenses which were used by some individuals to enter the 1994 special elk drawing. Duplicate licenses may be purchased when sportspersons claim an original license has been lost. Because the price of the duplicate license is much lower than the original license, LED personnel indicated this is another area where license fraud occurs. For example, a sportsman's license includes a conservation license, deer "A", elk, and black bear license and authorizes fishing and hunting of upland game bird. The 1995 cost of this license was \$64. The cost of a duplicate sportsman's license is \$5.

With assistance of a warden, we reviewed all duplicate licenses (a total of 45) from the 1994 special elk drawing to determine if potential fraud cases existed. In eight cases (18 percent) the sportsman's database showed the duplicate license purchase, but did not include a record of an original license purchase. We judgmentally selected one example from these eight, and examined hard copy license files to determine if an original license was purchased. We were unable to find the original license which means the duplicate license was purchased illegally or the original license copy was lost by the department.

According to the game wardens, such cases are difficult to prosecute because the courts do not always accept the database information as evidence that no license was purchased or a license copy does not exist. This is because the database has a high information error rate and controls do not exist to ensure original license copies remain secure. As a result, license fraud involving duplicate licenses is not generally pursued by the wardens.

The filing and data entry process is manual and relies on several parties. Those include commercial license agents, field wardens, regional staff, central office staff, and data processing staff in Bozeman. Department staff estimate an error rate for licensing

Chapter V - Other Work Activity Issues

data in the database to be 10 to 15 percent. Examples of errors include:

- License information not entered.
- License copies lost or misfiled.
- Typographical errors.
- License input under the wrong name.

Staff indicated these errors occur because controls are not in place to ensure information is correctly entered into the system.

Another weakness of the database is that only two DFWP employees can use the system at one time. Consequently, it is often difficult for wardens to access the system.

DFWP Examining an Automated Licensing System

Department officials intend to seek start-up funding for a state-wide automated licensing system during the 1997 legislative session. The department believes an automated system is needed to make it easier for license agents to sell licenses and to reduce department paperwork and data entry requirements related to the sportsman's database. We believe license fraud investigation is also a reason for implementing an automated licensing system. LED staff believe an automated system would provide a more credible tool to investigate license fraud by providing more timely and accurate licensing information.

Conclusion

We believe the department's plans to use an automated licensing system could address the weaknesses identified with the existing sportsman's database.

Ex-Officio Game Warden Program

Section 87-1-503, MCA, authorizes certain individuals to be ex-officio wardens. Part of our workload analysis included an evaluation of the department's ex-officio game warden program to determine if it could be utilized to improve enforcement coverage. Individuals authorized include retired game wardens, all peace officers in the state, and peace officers for other government agencies such as the U.S. Fish and Wildlife Service or U.S. Forest Service. This statute also authorizes the DFWP Director to appoint

Chapter V - Other Work Activity Issues

department field personnel as ex-officio wardens. All ex-officio wardens have the same enforcement powers as game wardens for enforcing fish, wildlife, and parks laws and regulations. Our review concentrated on the department's staff who are designated ex-officio wardens.

Types of Ex-Officio Wardens

The department has two types of employees who are ex-officio wardens. First, there are those employees which have formal law enforcement training, such as the department's park rangers. Park rangers are certified law enforcement officers within the department's Parks Division whose training includes graduation from the Montana Law Enforcement Academy. Their main function is to protect the state's park system. Due to their law enforcement status they are also ex-officio game wardens.

Secondly, there are ex-officio wardens who are not law enforcement certified. Department personnel identified under this category include biologists, seasonal employees, accountants, administrative personnel, maintenance personnel, and engineers. These employees are provided a 40 hour training course which covers some law enforcement basics. The training includes an overview of areas such as fish and wildlife laws, how to write citations, and observation skills. These employees are also empowered by statute to enforce all fish, wildlife, and parks laws and regulations.

Program Has Few Controls

Our review found the department has not established the controls necessary to effectively manage the ex-officio program. This has resulted in uncontrolled program growth since its inception. The following discusses identified concerns:

- At the time of the audit, neither the department nor the LED knew for sure which employees have been designated as ex-officio wardens.
- No policies and procedures have been established for the program. Although draft policies and procedures have been developed, none have been finalized.
- No formal process or criteria exists for selecting or screening employees the department wants to authorize as ex-officio

Chapter V - Other Work Activity Issues

wardens. Often times individuals decide themselves whether or not to become an ex-officio warden.

- Limited training is provided to ex-officio wardens who are not law enforcement certified. Although a 40 hour training course is provided, this is not sufficient training to give them the same enforcement authority as game wardens. In addition, no follow-up training exists.

As the program currently operates, there is no centralized control of the enforcement efforts of ex-officio wardens because they are not full-time enforcement personnel. They work for different divisions, have specific supervisors, and other job responsibilities which make it difficult to schedule their time for law enforcement purposes. LED officials indicated they have attempted to schedule the use of ex-officio wardens, but these factors have not made this possible.

Program is Not an Effective Supplement to Law Enforcement Activities

Since the ex-officio warden program is law enforcement related, one way to evaluate program activity is to analyze the number of citations ex-officio wardens write. A judgmental sample of 24 ex-officio wardens was selected to review the number of citations they wrote for calendar years 1992-94. The sample showed only 14 citations had been written in three years. However, 10 of these were written by park rangers. Of the remaining four citations, one was written by a game warden (but signed by an ex-officio) because the ex-officio warden did not know how to write the citation. Other ex-officio wardens accounted for the three citations issued during this three year time frame.

With the exception of park rangers, ex-officio wardens do not actively conduct law enforcement activities or look for violations. Interviews with several ex-officio wardens indicated if they witness a violation they generally notify a game warden instead of writing the citation themselves. Ex-officio wardens said they do this because they do not see themselves as law enforcement officers, and are not comfortable issuing citations.

LED management and staff indicated the ex-officio program does not help their enforcement operations. They are not able to schedule ex-officio wardens for assistance and have no input into

Chapter V - Other Work Activity Issues

ex-officio warden selection. They are also concerned with the potential liability to the department of empowering non-enforcement staff with the same law enforcement powers as game wardens. In addition, management personnel from the other divisions also recognize the program's deficiencies. Overall, the program is not an effective supplement to the department's existing law enforcement activities.

Original Purpose of Ex-Officio Program

The ex-officio statute was established by the 1921 Legislature and originally intended to authorize only certified law enforcement personnel as ex-officio wardens (i.e. police officers, sheriff deputies, etc.). During the 1965 legislative session this statute was amended to authorize the department director to appoint field personnel as ex-officio wardens. We reviewed legislative committee meeting minutes from the 1965 legislative session to determine why this change was made. The review found this change was made so field personnel could assist game wardens on "special occasions." However, the department has not defined "special occasions."

Summary

The ex-officio warden program may be able to supplement enforcement activities. However, the entire program needs to be restructured to do so. Program restructuring should clearly address:

- The type and qualifications of employees who can be designated as ex-officio wardens.
- The level of enforcement ex-officio wardens can be involved in.
- The level of training ex-officio wardens should receive.
- Reporting structure/control over ex-officio warden activities and scheduling time for law enforcement activities.
- Establishing policies and procedures.

Recommendation #3

We recommend the department restructure the ex-officio warden program to include specifying and monitoring of:

- Types and qualifications of employees designated as ex-officio wardens.
- Level of enforcement activities.
- Level of training.
- Reporting structure.
- Policies and procedures.

TipMont Operations

We reviewed the TipMont program to gain an understanding of how it operates and to assess what impact TipMont calls have on game warden work responsibilities. The following sections discuss issues related to TipMont and how the program could be improved.

What is TipMont?

The TipMont Crimestoppers program is a 1-800 based telephone operation established on the premise the general public can provide valuable assistance in combating fish and wildlife-related crime. For the past 11 years DFWP has maintained the toll-free phone line the general public can use to notify the LED of actual or potential violations of fish and game laws. The program has a reward component for those wishing to receive compensation for information provided. Callers can receive up to \$1,000 for a tip, but according to a LED representative the typical reward amount is \$200. A five member board determines the reward amount based upon a recommendation from the warden investigating the tip. Reward size is based on varying factors including information quality and risk to the informant.

Chapter V - Other Work Activity Issues

How Does TipMont Work?

Actual program operation in terms of who responds to the public's calls depends on the day of the week and hour of the day.

Between 8:00 a.m. and 5:00 p.m. Monday through Friday, LED staff answer the phone and respond to the tips. After 5:00 p.m. on weekdays and weekends the TipMont program is operated via a cooperative agreement with the Montana Highway Patrol. The Patrol's dispatchers answer the phone, record tip information and attempt to contact the applicable game warden. LED representatives at the division's central office collect the written information the next workday and follow up where necessary by passing the information to the applicable warden. It is the game warden's responsibility to determine what action and priority is necessary in regard to the tip and to initiate that action.

According to LED representatives, TipMont received approximately 900 violation-related calls in 1994. From these 900 calls, approximately 90 cases resulted in fines/restitution being levied. The LED representative indicated the \$54,000 in assessed fines/restitution made up about 20 percent of the fines/restitution assessed from all division law enforcement activities.

Limited Management Information and No Policies and Procedures

Currently, TipMont is a manual system which requires the phone operator to write out the caller's information and then contact a warden by phone. The LED follows up the warden phone contact with a copy of the written report. The wardens are to return the reports with a description of their response activities.

None of the information regarding program activities for the past 11 years has been compiled into a summary. Consequently, there are no formal statistics regarding number of calls received, cases "made" as a result of TipMont calls, where the calls are from in regard to geographic location, or type of impact TipMont calls have on a warden's ongoing workload. Additionally, TipMont does not have any formal policies or procedures relating to its operations. As a result, the following areas of concerns were noted:

- No consistency in how calls are taken and by whom.

Chapter V - Other Work Activity Issues

- No consistency in what information is obtained by the phone operators.
- Incomplete and/or inconsistent documentation in the call reports completed by the phone operators.
- Inability to assess how quickly wardens were able to respond to TipMont calls.
- Delays in wardens returning the completed report forms.

Summary

TipMont is not only considered an important part of the LED's enforcement tools, it is a public relations methodology which allows public participation in protection of the state's recreational resources. Therefore, each and every call should be handled in a manner which assures the caller and division the information collected and distributed to the wardens is being handled in an appropriate and timely fashion by all involved parties. We believe greater emphasis should be placed on TipMont operations by establishing policies and procedures, compiling management information on program outcomes and impacts, and evaluating who should be in-charge of phone operations throughout the day and week. This would also provide the division with information on how TipMont impacts game warden work activities. This could then be used to help establish resource priorities.

Recommendation #4

We recommend the LED:

- A. Establish policies and procedures regarding TipMont operations.**
- B. Compile management information on program outcomes and impacts.**

Chapter V - Other Work Activity Issues

Controls Over Citations Should be Improved

The LED central office is responsible for assignment and issuance of citation or NTA (Notice To Appear) books to the wardens. Central office staff document the numbered sequence of the 20 citations contained in each book and which warden the book is issued to. Central office personnel then enter the citation numbers and warden assignment information into a NTA database so it can be later verified which citations have been used by the warden. This verification occurs when the wardens return the citation copy showing the court's disposition action. The citation number and results of the court's disposition is entered into the NTA database.

One Control No Longer Exists

During review of the NTA database activities, we determined one of the previous controls over citations used by the wardens is no longer operational. Several years ago central office personnel were able, via the NTA database to create a report which showed the citation numbers not yet received by central office from the wardens. This quarterly report allowed central office, the wardens' supervisors, and wardens to remain aware of what citation numbers were outstanding and when they were issued. Due to a problem in the NTA database, central office can no longer generate this report. Additionally, central office no longer generates a report which shows the citation numbers issued to wardens. Subsequently, there is limited automated review and control over the citations used by wardens. Additionally, warden supervisors (sergeants and captains) have only limited ability to monitor citation usage because they do not know what citation numbers have been issued or used.

Large Amounts of Money Collected

For fiscal year 1994-95, the department collected \$330,164 in fines and restitution as a result of citations issued by wardens. To assess the effect of the limited controls over citations, we interviewed LED personnel to determine the potential for wardens to issue citations, collect bond moneys as well as restitution, and then not give the applicable court a copy of the citation issued. Based upon those interviews, the bond and restitution amounts which can be collected by wardens, and the existing citation controls, we believe additional controls should be in place to monitor citation usage.

Chapter V - Other Work Activity Issues

As an example of the potential dollar amounts which can be collected in a game violation stop, a warden could hypothetically: find a nonresident hunter on private property without landowner permission, who has possession of an untagged elk carcass, and does not have a valid nonresident elk license. The warden would typically write citations for: failure to attach license, not having a valid elk license, and trespassing. It is LED policy to require all nonresidents to post a cash bond for any alleged violations, so the warden could require the person to post the following bond amounts:

Failure to get landowner permission	\$115
Hunt without a license (large game animal)	715
Failure to attach license tag	<u>115</u>
Total	<u>\$945</u>

In addition to the bond, the individual would have to reimburse the state for the illegally killed animal. For an elk, the restitution amount is \$1,000. Therefore, the warden would either collect \$1,945 from the individual or escort them to the nearest detention facility until the bail bond was paid or the individual appeared before a judge. Based upon warden interviews, most nonresidents who are unwilling to contest the alleged violation(s), post cash bonds with the wardens instead of taking the time to make a court appearance. Since the only documentation which indicates who has been issued a citation is the citation itself, the result is, potentially large sums of money may be given to wardens with little or no management oversight.

Other Law Enforcement Agencies Have More Controls

To assess types of citation controls other state law enforcement agencies maintain, we contacted the Montana Highway Patrol and the Motor Carrier Services Division of the Department of Transportation. Both agencies issue citations to individuals and collect cash bonds. Representatives for both agencies indicated controls over issuance and usage of citations is an important part of their operations. Based on interviews and observations, both agencies have significantly more control over citations than those employed by the LED. These controls include detailed inventories of citations, extensive documentation of the receipt and usage of citations by officers, various levels of supervisory oversight of

Chapter V - Other Work Activity Issues

citation usage, and scheduled automated reports showing citation status.

Currently, the LED does not have any formal, detailed policy or procedure to assure appropriate citation controls are in place. In addition to current limitations of the NTA database to provide automated citation control reports, LED supervisory personnel conduct only limited monitoring of citation usage.

Establish Formal Policies and Procedures

The LED should increase emphasis on citation controls by establishing formal policies and procedures to help assure appropriate warden usage of citations and increase supervisory monitoring of citation usage. Additionally, LED should re-establish their capability to generate automated reports on citation usage and again begin to provide (on a regularly scheduled basis) both wardens and warden supervisors with the information needed to increase assurance all citations are accounted for.

Recommendation #5

We recommend the LED:

- A. Establish formal policies and procedures regarding citation controls.**
- B. Re-establish their capability to generate automated reports regarding citation usage.**

Agency Response

**Montana Department
of
Fish, Wildlife & Parks**



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Ref: PG0206.96
March 14, 1996

Scott Seacat
Legislative Auditor
State Capitol
PO Box 201705
Helena, MT 59620-1705

Dear Scott:

Attached are the responses of Montana Fish, Wildlife & Parks to the recommendations of the performance audit report entitled "Analysis of Game Warden Work Activities" which was recently completed by your office. We are pleased that the auditors acknowledged the strong commitment Montana wardens have to protecting Montana's fish, wildlife and park resources. We are proud of the excellent, professional, and dedicated work accomplished by our officers.

As the report recognizes, the workload of the wardens has increased dramatically in the past twenty years without a proportionate increase in the number of wardens. In addition to new duties, the wardens must also respond to an increasing number of calls from the public. FWP faces the dilemma common to all enforcement work: how do we maintain responsiveness to increased public demands while being more proactive in addressing resource priorities? This problem is compounded by seasonal fluctuations in workload with the greatest demand occurring during the summer parks and fishing season and the fall hunting season.

For several years FWP has been engaged in a department-wide program planning effort to determine appropriate outcomes for all three programs - fish, wildlife and parks - in a changing society and environment. Enforcement is an important part of all three programs and is now more actively involved in setting objectives and performance standards. As the report indicates, change takes time. We are confident, as are the auditors, that a more integrated approach is vital to meeting our customers needs in the future.

We appreciate the time your staff spent in reviewing the activities of the law enforcement division. As you can see from our responses, we are generally in agreement with the audit recommendations. We are already involved in a major, resource based planning effort, not only in LED but throughout the department. This will allow us to evaluate the other audit recommendations in the context of the full range of legislative, department, and public priorities.

Sincerely,

A handwritten signature in black ink, appearing to read "Pat Graham", with a long horizontal flourish extending to the right.

Patrick J. Graham
Director

Attachment

Recommendation #1

We recommend the department implement a resource based enforcement workload planning and priority-setting process.

RESPONSE TO #1

We concur. For several years FWP and the Law Enforcement Division (LED) have been working toward resource based planning. LED is in the process of redefining goals, objectives, strategies, outcomes and performance measures to integrate department goals and objectives and to evaluate enforcement efforts based on the effects on the public resources. FWP has already created several interdivisional teams which include wardens to work on resource issues. One example is the Blackfoot Corridor team which, in making resource decisions and setting priorities, is balancing the needs of resource protection, public recreation, and private property along the Blackfoot River. Another example is the team established to review the fishing access program including acquisition, maintenance, enforcement, and financing.

We will continue to refine our resource planning efforts. Our efforts will focus on defining clearer outcomes based on public expectations, improved communications between divisions, and looking to maintain a high standard of training.

Although we concur in the recommendation, we do not entirely agree with the analysis. The division and region staff establish priorities through a variety of means including work plans, meetings to discuss current problems, goals outlined in performance appraisals, and memoranda sent to wardens directing them individually to perform certain work. Wardens take part in the prioritization of the work load, not only in their district but in the region as a whole. Unfortunately, a consistent means of integrating priorities between divisions has been slower to develop. Enforcement planning meetings lead to the development of work plans and the setting of priorities. Check stations, saturation patrols, special investigations, game damage concerns, season proposals, and policy are discussed at regional and district levels. Warden captains and sergeants contact the field wardens on a regular basis. Most of these contacts are to assist wardens in balancing competing requests for their time. In addition there is a more formal evaluation of implementation.

The wardens have discretion on a daily basis to determine what and how to do their work. They are guided in their decisions by the list of tasks and time frame for completion provided by their supervisors and also by the request from assistance they receive from the public and other agency personnel which must be addressed. Wardens need flexibility to deal with emergencies and public concerns in a timely manner. Conflicting priorities are discussed with supervisors. This process can be improved and should involve more input from the other divisions as well as the public.

Recommendation #2

We recommend the department:

- A. Strengthen central office involvement in license fraud investigations.
- B. Establish formal procedures for license fraud investigations.

RESPONSE TO #2

We will give this recommendation further consideration. FWP already investigates numerous license fraud cases. In 1994, wardens issued 374 citations resulting in fines of \$96,798. This averages about six cases per field warden. In addition to computer checking the sportsman's data base, Department of Revenue tax records, driver's license and vehicle registration records, the warden has to interview witnesses and check the alleged violator's statements. These cases remain complex and time consuming, even though the revision of the residency law last session has made them easier to prosecute. If we make license fraud a higher priority, other warden activities will have to be dropped or reduced. The first audit recommendation is for the LED to determine priorities based on a resource-based system. Until the recommended prioritization is completed, it is difficult to determine how much effort should be placed in license fraud investigations based on other priorities and amount of time available.

Wardens currently receive training in license fraud and similar types of investigations. If we provide additional central office staff to deal with license fraud under current staff levels, we would need to move a field position into Helena, thus reducing field enforcement.

The audit report attempts to quantify license fraud, but there are also other problems related to resource depletion which are less quantifiable. Montana has a problem with people who do not buy any license but who hunt trophy big game animals. We have also found nonresidents hunting with resident licenses lawfully purchased by residents and unlawfully transferred to the nonresidents. Some licensed hunters purposely shoot game of the wrong species or wrong sex. All of these violations lead to loss of wildlife resources. The report has elevated one problem to a priority without evaluating the need to address other problems with similar resource results.

We agree that the point of sale license system being evaluated by FWP will greatly improve the accuracy of the data used in license fraud investigations and will make convictions more probable.

Recommendation #3

We recommend the department restructure the ex-officio warden program which includes:

- Identifying the types and qualifications of employees designated as ex-officio wardens.
- The level of enforcement activities.
- The level of training.
- Clarifying the reporting structure.
- Establishing policies and procedures.

RESPONSE TO #3

We concur. The ex officio warden program is one of several ways the department has tried to cost effectively address the high seasonal demands during the summer fishing/parks season and the fall hunting season. Although no recommendation was made on how to address this workload problem, we recognize the limits of ex officio and have formed an internal work group to look at alternatives to address the increasing workload.

The department currently has 99 ex officio wardens who are department employees. Over the next six months, the department will reduce the number of ex officio wardens to those field personnel who need minimal law enforcement authority to address violations of laws and department rules. Most of the effort has been and will continue to be education of the public and prevention of violations. We will adopt a final policy clearly addressing qualifications, initial and annual training, extent of authority, and actions to be taken.

Recommendation #4

We recommend the LED:

- A. Establish policies and procedures regarding TipMont operations.
- B. Compile management information on program outcomes and impacts.

RESPONSE TO #4

We concur. We do not have staff sufficient to maximize the operation of the TipMont program. The program would benefit from trained operators to answer calls and personnel to computerize and analyze the data. We are looking at alternative ways of staffing the program to obtain more complete information from the callers, to be able to enter the information into a database for better use and analysis of the statistics, and to have a system to prioritize the need to investigate information provided in calls and to communicate more effectively with the field wardens.

Recommendation #5

We recommend the LED:

- A. Establish formal policies and procedures regarding citation controls.
- B. Re-establish their capability to generate automated reports regarding citation usage.

RESPONSE TO #5

We concur. We had previously been able to generate a report showing citations which have not been entered in the system and agree this needs to continue. A computer software problem developed which has prevented us from systematically obtaining the level of information on all citations. We are working to correct this problem. We have policies and procedures regarding citation controls, but we will be reviewing them and revising them as necessary.

